

Order

Michigan Supreme Court
Lansing, Michigan

September 15, 2006

Clifford W. Taylor,
Chief Justice

131036

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

MICHAEL BANKS,
Plaintiff-Appellant,

v

SC: 131036
COA: 257902
Oakland CC: 2003-049526-NO

EXXON MOBIL CORPORATION, d/b/a
WIXOM MOBIL ON THE RUN, and
ROBERT PEMBERTON,
Defendants-Appellees,

and

DEBRA SALISBURY,
Defendant.

On order of the Court, the application for leave to appeal the March 16, 2006 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on whether to grant the application or take other preemptory action. MCR 7.302(G)(1). At oral argument, the parties shall address: (1) whether the lower courts erred in ruling that the defendants are entitled to summary disposition on the issue of whether the defendants knew or should have known of the dangerous condition of the gasoline pump; and (2) whether the Oakland Circuit Court's ruling that the jury would be instructed that it could infer that the missing videotape would be adverse to the defendants should play any role in the determination of whether summary disposition is warranted under MCR 2.116(C)(10) and, if so, how the adverse inference affects the summary disposition proceedings. The parties may file supplemental briefs within 42 days of the date of this order, but they should avoid submitting a mere restatement of the arguments made in their application papers.



s0912

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 15, 2006

Corbin R. Davis

Clerk